C.B. II No. 256

JOINT COMMITTEE ON OFFICES OF PROFIT

(FIFTH LOK SABHA)

FIRST REPORT

(Presented on the 10th December, 1971)

LOK SABHA SECRETARIAT
NEW DELHI

December, 1971/Agrahayana, 1893 (Saka)

Price : Re. 0.60 p.

Corrigenda to the First Report of the Joint Committee on Offices of Profit (Fifth Lok Sabha)

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JOINT COMMITTEE ON OFFICES OF PROFIT

(Fifth Lok Sabha)

COMPOSITION OF THE JOINT COMMITTEE

CHAIRMAN

Shri Dharnidhar Basumatari

MEMBERS

Lok Sabha

2. Shri Chandrika Prasad
3. Shri Somnath Chatterjee
4. Shri Jagannathrao Joshi
5. Shri Z. M. Kahandole
6. Shri Pratap Singh
7. Shri Ramji Ram
8. Shri S. B. P. Pattabhi Rama Rao
9. Shri Arjun Sethi
10. Shri Ramavatar Shastri

Rajya Sabha

11. Shri Venigalla Satyanarayana
12. Dr. (Mrs.) Mangladevi Talwar
13. Shri M. V. Bhadram
14. Shri S. A. Khaja Mohideen
15. Shri Sanda Narayanappa

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

Shri H. G. Paranjpe—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this First Report of the Committee.

2. The motion for the constitution of the Joint Committee on Offices of Profit (Fifth Lok Sabha) was moved in Lok Sabha by Shri Niti Raj Singh Chaudhury, Minister of State in the Ministry of Law and Justice, on the 15th June, 1971 and was adopted by Lok Sabha on the same day (Appendix I).

3. The Rajya Sabha concurred in the said motion on the 21st June, 1971 (Appendix II). The message from Rajya Sabha communicating the names of members of Rajya Sabha elected to the Joint Committee was reported to Lok Sabha on the 25th June, 1971.

4. The names of members of Lok Sabha elected to the Joint Committee were published in the Lok Sabha Bulletin Part II, dated the 8th July, 1971 and the names of members of Rajya Sabha elected to the Joint Committee were published in the Rajya Sabha Bulletin Part II, dated the 23rd June, 1971.

5. The Committee held four sittings* on the 26th July, 12th August, 24th September and 10th November, 1971.

6. At the first sitting of the Committee held on the 26th July, 1971, the Chairman in his inaugural address welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee. The Committee also approved, with certain verbal modifications, a draft Office Memorandum to be addressed to the Ministries/Departments of the Government of India and a draft letter to be addressed to the State Governments/Union Territories requesting them to furnish information regarding the Committees/Corporations/Boards, etc. constituted by them. The Committee also approved the draft proforma of the memoranda for placing before the Committee information regarding Committees/Corporations/Boards etc. received from the Ministries and Departments of the Central Government and State Governments/Union Territories.

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*The minutes of these sittings form part of the Report and one at Appendix IV, Pages 14-33.

7. At their second and third sittings held on the 12th August and 24th September, 1971, the Committee considered 19 memoranda regarding the composition, character, functions, etc. of the Committees|Boards|Corporations constituted by the Central and State Governments and the emoluments and allowances payable to their members.

8. Detailed information regarding the composition, character, functions, etc. of the Committees/Boards/Corporations, etc. and emoluments and allowances payable to their members was furnished by the respective Ministries/Departments of the Central and State Governments on requests made by Lok Sabha Secretariat.

9. The Committee considered and adopted this Report on the 10th November, 1971.

10. The recommendations of the Committee in respect of the Committees/Boards/Corporations, etc. examined by them are given in the succeeding paragraphs.

II

COMMITTEES|BOARDS|CORPORATIONS ETC. APPOINTED BY CENTRAL AND STATE GOVERNMENTS

Gujarat State Road Transport Corporation

11. The Committee note that the Chairman of the Gujarat State Road Transport Corporation gets an honorarium of Rs. 1000/- per month, in addition to his conveyance allowance claims. The non-official members of the Corporation are entitled to a sitting fee of Rs. 50/- for attending the sittings of the Corporation, in addition to D.A. and conveyance allowance of Rs. 7.50 in Ahmedabad and Rs. 5/- elsewhere for the day of the sitting. The aggregate amount payable to the non-official members of the Corporation thus exceeds the amount of 'compensatory allowance', as defined in the Parliament (Prevention of Disqualification) Act, 1959. Besides, the Corporation exercise executive and financial powers under various provisions of the Road Transport Corporations Act, 1950 which can be delegated to members through committees. As such, the Committee feel that even the membership of the Corporation ought to disqualify.

Maharashtra State Road Transport Corporation

12. The Committee note that the members of the Maharashtra State Road Transport Corporation are entitled to a sitting fee of Rs. 40|- per day, which is less than the 'compensatory allowance'.

However, the Corporation has executive powers under Section 19 of the Road Transport Corporations Act, 1950. In their note to the Committee, the Government of Maharashtra stated that the members of the Corporation do not individually hold powers or exercise functions of the Corporation. The Committee, however, observe that under section 12 of the Road Transport Corporations Act, the Corporation can appoint Committees of its members for performing such functions as may be specified and delegate to any such Committee its powers and duties. The Committee, therefore, feel that the membership of the Corporation ought to disqualify.

Calcutta State Transport Corporation

13. The Committee note that the non-official members of the Calcutta State Transport Corporation are entitled to a sitting fee of Rs. 100/- per meeting which is more than 'compensatory allowance'. The Committee also note that the Board exercises executive and financial powers under Section 19 of the Act. As such, the Committee feel that the membership of the Corporation ought to disqualify.

Calcutta Tramways Advisory Committee

14. The Committee note that the Chairman of the Calcutta Tramways Advisory Committee—a non-official—is entitled to an allowance of Rs. 150/- for attending each meeting. Other non-official members are entitled to an allowance of Rs. 100/- per day. As the amount payable to the Chairman and other non-official members per day exceeds the 'compensatory allowance', the Committee feel that even the membership of the Committee ought to disqualify.

Arbitration Board, Kerala

15. The Committee note that the Chairman and members of the Arbitration Board, Kerala, who are all non-officials, are entitled to a sitting fee of Rs. 75/- for attending the sittings of the Board which exceeds the amount of 'compensatory allowance'. Besides, the Board exercises judicial powers. As such, the Committee feel that even the membership of the Board ought to disqualify.

Industrial Relations Committee for the Handloom Industry, Kerala

16. In the material furnished to the Committee, the Government of Kerala had indicated the functions of the Industrial Relations Committee for handloom Industry, as follows:

"Tackling of industrial relation problems that might arise in this industry and to pave way for better employer-employee relations."

The Joint Committee on Offices of Profit (Fourth Lok Sabha), at their sitting held on the 18th August, 1970, while considering the character, composition, functions, etc. of the Industrial Relations Committee for the Handloom Industry, Kerala, had desired to be furnished with detailed information regarding the functions of the Committee from the Government of Kerala stating, in particular, the manner in which the industrial relation problems arising in the industry were being tackled and employer-employee relations improved.

In their reply, the Government of Kerala stated as follows:—

"The main functions of the Industrial Relations Committee are to discuss and find out amicable decisions on all issues of industry-wide nature in order to maintain cordial relationship between managements and their labour in the Handloom Weaving Industry. Important decisions are drawn up in the form of memorandum of settlement under *Industrial Disputes Act* and hence they are having legal validity. Specific issues affecting the industry are being enquired into by setting up of sub or *ad-hoc* committees and its report considered by the main Industrial Relations Committee. Representation is given to important employers and to organisations of employees and also to independent unions of substantial strength with the Labour Commissioner as its Chairman."

17. In this connection, the Committee note the following observations made by the Sub-Committee of the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1958:

"The Sub-Committee note that Members of Parliament happen to be sometimes elected or nominated by sectional interests such as employers, employees etc., to represent them on some of the Committees. The Sub-Committee are of the view that such members ought not to incur disqualification."

The Committee endorse the above views. They also note that the non-official members of the said Industrial Relations Committee are allowed only T.A./D.A. at the rate admissible to First Class Officers of State Government which is less than the 'compensatory

allowance'. The Committee, therefore, feel that the non-official members of the said Committee ought to be exempted from disqualification.

Maharashtra Faculty of Ayurvedic and Unani System of Medicine

18. The Committee note that the non-official members of the Maharashtra Faculty of Ayurvedic and Unani Systems of Medicine are entitled to a sitting fee of only Rs. 15/- which is less than 'compensatory allowance'. As such, the Committee feel that they ought to be exempted from disqualification.

Board of Directors of Hindustan Teleprinters Ltd., Madras

19. The Committee note that the non-official Directors of the Hindustan Teleprinters Ltd., Madras are entitled to a sitting fee of Rs. 50/- for each meeting. They are also entitled to incidental expenses of Rs. 100/-. The Committee also note that the local Directors, besides getting a sitting fee of Rs. 50/- per meeting, are also entitled to get Rs. 12.50 per meeting to cover out-of-pocket expenses including conveyance charges. The Members of the Board of Directors thus get an amount which is more than 'compensatory allowance'. Besides, the Board of Directors exercise executive and financial powers. As such, the Committee feel that the membership of the Board of Directors ought to disqualify.

20. The Committee are of the view that the functions of the Committee/Boards/Corporations etc. specified in Appendix III are mainly advisory in nature. Besides the daily allowance|sitting fee etc. payable to the non-official members of these bodies is less than 'compensatory allowance'. As such, the membership of these bodies ought to be exempted from disqualification.

III

REVIEW OF EARLIER RECOMMENDATIONS

Kerala State Coir Corporation Ltd.

21. The Joint Committee on Offices of Profit (Fourth Lok Sabha) considered the character, composition, functions, etc. of the Kerala State Coir Corporation Ltd. on the 23rd April, 1970.

After taking into consideration the full particulars furnished by the State Government of Kerala, the Committee in para 16 of their Fifth Report (Fourth Lok Sabha) observed as follows:—

> ".....From the material furnished to them, the Committee observed that the Directors of the Corporation are entitled

to draw T.A./D.A. as admissible to the First Grade Officers of the State and a 'sitting fee' of Rs. 25|- per sitting.

On the question whether payment of 'sitting fee' would constitute 'profit', the Committee examined a number of judicial decisions having a bearing on the term 'Office of Profit'. The Committee noted in particular the opinion tendered by the Election Commission, relevant extract reproduced below, in the case regarding Vindhya Pradesh Legislative Assembly Members. (ELR, Vol. IV, p. 422):

'(ii) If consideration is paid in the shape of a remuneration, 'sitting fee' or 'attendance fee', it becomes a 'profit', inasmuch as it does not even purport to cover any actual expenses. Such consideration or remuneration should be deemed to constitute 'profit' even though, on detailed accounting, it may be found that no financial advantage has, in fact, been gained by the member in quetsion.'

In the light of the above opinion of the Election Commission, the Committee feel that the payment of 'sitting fee' of Rs. 25/- in addition to T.A.|D.A. would be deemed to constitute 'profit'. As such, the Committee are of the opinion that even Directorship of the Corporation ought to disqualify."

22. On the 28th July, 1970, Shrimati Suseela Gopalan, an ex-M.P. (one of the Directors of the Corporation) and 13 other M.Ps. (Fourth Lok Sabha) addressed the following letter to the Chairman of the Committee:

"We, the undersigned consider the decision of Committee held on 23rd April, 1970 regarding the Kerala State Coir Corporation Ltd. as a wrong decision. This is a Corporation formed to revive a dying industry. Only through the cooperation of M.Ps., M.L.As and other social workers this can be done. In this connection we have fresh evidence to give before the Committee against the conclusions of the Committee. We request you to re-open the case and give us an opportunity to present our case before the Committee."

23. At their sitting held on the 21st August, 1970, the Committee heard the views of Shrimati Suseela Gopalan, Shri N. Sreekantan Nair and 5 other M.Ps. in the matter.

During his evidence, Shri N. Sreekantan Nair urged that the amount of 'sitting fee' per meeting payable in this case was well below Rs. 51|- per day admissible under the Parliament (Prevention of Disqualification) Act, 1959. He also pointed out that Part I of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 included a list of Government Companies *e.g.* Air India Inernational Corporation, the Export Risks Insurance Corporation (Private) Limited, the Heavy Electricals (Private) Limited etc. The directorship of these bodies was exempt from disqualification. He suggested that either public sector undertakings like the Kerala State Coir Corporation Ltd. should be similarly included in Part I of the Schedule to the Act *ibid.* or it should be provided that if the amount payable to the Members thereof did not exceed Rs. 51/- per day, these should be exempted from disqualification.

24. Referring to an earlier* recommendation of the Committee, Shrimati Suseela Gopalan urged that in cases where Members of Parliament or State Legislatures were appointed to serve on public undertakings, it should be provided that they would be paid D.A. only to the extent they were entitled to get as Members of Parliament or State Legislatures.

25. In the light of the above evidence, the Committee of Fourth Lok Sabha sought a clarification from the Government of Kerala whether, in addition to the sitting fee of Rs. 25|- per day, any daily allowance for the day of sittings was admissible to the members of the Corporation.

In their letter dated 7-10-1970, the Government of Kerala stated as follows :—

> "....The Directors of the Kerala State Coir Corporation Ltd. are paid only sitting fee of Rs. 25|- for the day of sitting of the Corporation and that no D.A. is paid to them for that day....."

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*"The Committee feel that in order to obviate the danger of Members of Parliament incurring disqualification, Government should issue instructions to all the public undertakings wheather fully or partially owned by them to provide in their rules that Members of Parliament serving on them shall not be entitled to any sum of money other than compensatory allowance as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

As regards Members of Parliament appointed to serve on non-statutory bodies, the Committee feel that the rules relating to non-statutory bodies framed by Government should also be similarly amended to provide that Members of Parliament shall not be entitled to any sum of money other than compensatory allowance as defined in section 2(a) of the Parliament (Prevention of Disqualfication) Act, 1959." [*vide* paras 17-18 of First Report (Second Lok Sabha)].

26. The Committee have reconsidered the matter in all its aspects. While they agree that the amount per day payable to a Director of the Corporation by way of sitting fee/daily allowance is well below the 'compensatory allowance', as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959, nevertheless, while coming to a conclusion whether an office ought to be exempted from disqualification, the Committee have to take into account, besides 'compensatory allowance', other criteria, such as, whether the office involves exercise of executive and financial powers and thereby enables the holder to wield influence and patronage. From the material furnished to them by the Government of Kerala, the Committee observe that the Board of Directors of the Corporation exercise both executive and financial powers and are in a position to wield influence and patronage. The Committee, therefore, reiterate their earlier recommendation that the Membership of the Board of Directors ought not to be exempted from disqualification.

Board of Review of Publications, West Bengal

27. In para 7 of their Fifth Report presented to the House on the 27th April, 1970, the Joint Committee on Offices of Profit (Fourth Lok Sabha) had recommended that as the Chairman and other members of the Board were getting monthly honorarium, which was more than 'compensatory allowance', even the membership of the Board ought to disqualify.

In this connection, the following representation was received from the Government of West Bengal:

> "In 1968 the Board was reconstituted with only one non-official member in addition to the non-official Chairman....In the existing Board only a member of the Board gets a monthly honorarium while the Chairman gets Rs. 50 per sitting of the Board. Thus the Chairman is no longer in receipt of a monthly honorarium but only of a remuneration in the nature of daily allowance. In view of the change in the remuneration of the Chairman of the existing Board of Review of Publications, West Bengal, the question of disqualification of the Chairman of the Board may be reviewed..... In other words, a disqualification under clause (h) of Section 3 of the Parliament (Prevention of Disqualification) Act, 1959, will arise only if the allowance drawn by the Chairman is more than the 'compensatory allowance' as defined in the Act."

The Committee note that the Chairman of the Board is no longer in receipt of a monthly honorarium and that he now draws only

Rs. 50|- per sitting of the Board in the nature of daily allowance. This amount being less than 'compensatory allowance', the Committee recommend that the Chairmanship of the Board ought to be exempted from disqualification.

Central Social Welfare Board

28. The Joint Committee on Offices of Profit in para 13 of their Fifth Report (Fourth Lok Sabha) had, *inter alia,* observed that under clause 12(J) of the Articles of Association of the Company (Central Social Welfare Board), the Executive Committee could delegate to any officer of the Board (Company) such administrative and financial powers as it might deem fit. The Committee had therefore, recommended that any non-official member who was delegated with any executive and financial powers at a subsequent date ought also to disqualify.

In regard to the above recommendation of the Committee, the Department of Social Welfare represented as follows:—

> "Since no non-official member of the Executive Committee has been delegated with any executive and financial powers and decisions are taken by the Executive Committee only in its collective capacity, provisions regarding disqualification for the purpose of election to the Parliament should not apply to the non-official members of the Executive Committee, who do not hold any office of profit in the Board."

The Committee would like to observe that, in terms of their earlier recommendation, only such of the non-official members of the Board ought to incur disqualification as are delegated with executive or financial powers under clause 12(J) of the Articles of Association of the Company. So long as they are not delegated with any such power, the question of incurring a disqualification, as per the aforesaid recommendation of the Committee, will not arise. The Committee, therefore, feel that no change in their earlier recommendation is calld for.

DHARNIDHAR BASUMATARI,
Chairman,
Joint Committee on Offices of Profit.

NEW DELHI-1;
The 10th November, 1971.

APPENDIX I

(*Vide* para 2 of the Report)

MOTION IN LOK SABHA FOR THE CONSTITUTION OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

"That a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted consisting of fifteen members, ten from this House and five from the Rajya Sabha, who shall be elected from amongst members of each House according to the principle of proportional representation by means of the single transferable vote;

That the functions of the Joint Committee shall be—

(i) to examine the composition and character of all existing 'committees' and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as and for being, a member of either House of Parliament under article 102 of the Constitution;

(ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify;

(iii) to scrutinise from time to time the Schedule in the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise;

That the Joint Committee shall, from time to time, report to both Houses of Parliament in respect of all or any of the aforesaid matters;

That the members of the Joint Committee shall hold office for the duration of the present Lok Sabha;

That in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Committee;

That in other respects, the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

That this House recommends to the Rajya Sabha that the Rajya Sabha do join in the said Committee and to communicate to this House the names of members to be appointed by the Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 3 of the Report)

MOTION IN RAJYA SABHA

"That this House concurs in the recommendation of the Lok Sabha that a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted for the purposes set out in the motion adopted by the Lok Sabha at its sitting held on the 15th June, 1971, and communicated to this House and resolves that this House do join in the said Joint Committee and proceed to elect, in accordance with the system of proportional representation by means of the single transferable vote, five members from among the members of the House to serve on the said Joint Committee."

APPENDIX III

(*Vide* para 20 of the Report)

COMMITTEES, BOARDS, CORPORATIONS ETC. WHOSE MEMBERSHIP OUGHT NOT TO DISQUALIFY

UNDER CENTRAL GOVERNMENT

1. Committee to survey the Indian Book Industry and Trade.

UNDER STATE GOVERNMENTS

Madhya Pradesh

2. State Committee on Employment for Madhya Pradesh.
3. District Committee on Employment, Raipur.

Orissa

4. Board of Primary Education, Orissa.
5. State Flood Control Board, Orissa.

Rajasthan

6. Rajasthan State Scheduled Castes Welfare Advisory Board.

APPENDIX IV

MINUTES OF JOINT COMMITTEE ON OFFICES OF PROFIT

I

First Sitting

The Committee met on Monday, the 26th July, 1971 from 15.30 to 16.00 hours.

PRESENT

Shri Dharnidhar Basumatari—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Z. M. Kahandole
3. Shri Pratap Singh
4. Shri S. B. P. Pattabhai Rama Rao
5. Shri Arjun Sethi

Rajya Sabha

6. Dr. (Mrs.) Mangladevi Talwar
7. Shri Sanda Narayanappa

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Chairman welcomed the members of the Committee and explained to them broadly the scope and functions of the Committee (*Annexure I*).

3. The Committee approved, with certain verbal modifications, the following drafts:—

(i) Office Memorandum regarding the Committees|Corporations|Boards, etc., constituted by the Ministries and Departments of the Central Government (*Annexure II*).

(ii) Letter regarding the Committees|Corporations|Boards, etc. constituted by the State Governments|Union Territories (*Annexure III*).

4. The Committee also approved the draft proforma of the Memoranda for placing before the Committee information regarding Committees|Corporations|Boards etc., to be received from the Ministries and Departments of the Central Government|State Governments|Union Territories (*Annexure IV*).

5. The Committee then adjourned to meet again at 15.30 hours on Monday, the 9th August, 1971.

ANNEXURE I

ADDRESS BY THE CHAIRMAN, JOINT COMMITTEE ON OFFICES OF PROFIT (FIFTH LOK SABHA) TO THE MEMBERS OF THE COMMITTEE AT ITS FIRST SITTING HELD ON MONDAY, THE 26TH JULY, 1971

Friends,

It gives me great pleasure to welcome you all to this first meeting of the Joint Committee on Offices of Profit of the Fifth Lok Sabha.

2. Article 102(1)(a) of the Constitution reads as follows:—

"102(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an Office declared by Parliament by law not to disqualify its holder.

* * * * *

Connotation of the term 'office'

3. The expression "holds any office of profit under the Government" occurring in the above Article has no where been defined precisely. Its scope has, therefore, to be gathered from the pronouncements on the subject made from time to time by the Courts, Election Tribunals, etc.

Bhargava Committee and the Parliament (Prevention of Disqualification) Act, 1959

4. On the 21st August, 1954, Mr. Speaker Mavalankar, appointed a Committee on Offices of Profit under the Chairmanship of Pandit Thakurdas Bhargava to study various matters connected with disqualification of members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House. In pursuance of the recommendations made by the Bhargava Committee,

the Parliament (Prevention of Disqualification) Act, 1959 was passed. This Act declares the offices of profit under the Government which do not disqualify the holders thereof for being chosen as, or for being, Members of Parliament.

Salient features of the 'Act'

5. The following are some of the salient features of this Act:—

(1) Section 2(a) of the Act defines 'Compensatory Allowance' as under:—

"Compensatory allowance means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954), any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office."

(2) Section 3 of the Act enumerates the offices which will not disqualify the holders thereof for being chosen as, or for being, a Member of Parliament. However, under clause (i) thereof,

(a) the office of Chairman of a statutory or non-statutory body specified in Part I of the Schedule and (b) the office of Chairman or Secretary of a statutory or non-statutory body specified in Part II of the Schedule to the Act is not exempt from disqualification even if, the holder of such an office is not entitled to any remuneration other than 'compensatory allowance'.

Origin of the Joint Committee on Offices of Profit

6. As recommended by the Joint Committee on Parliament (Prevention of Disqualification) Bill, 1957, a Parliamentary Joint Committee on Offices of Profit was constituted in August, 1959 for the duration of the remaining period of Second Lok Sabha. It was constituted again in 1962 for the duration of the Third Lok Sabha and in 1967 for the duration of the Fourth Lok Sabha. This Committee, unlike other Parliamentary Committees, is constituted for duration of the full term of Lok Sabha.

Functions of the Committee

7. The functions of the Committee are specified in the motion moved for the constitution of the Committee and adopted by Lok Sabha and concurred in by Rajya Sabha. These are:—

(i) to examine the composition and character of all existing 'committees' and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under Article 102 of the Constitution;

(ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify; and

(iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

8. The Joint Committee examine the detailed particulars regarding the composition and character, etc. of the 'committees' constituted by the Ministries/Departments of the Central Government as well as by the State Governments. The Joint Committee do not examine the composition and character of 'committees' which consist wholly of officials or which are constituted for *ad hoc* purposes. Further, the Joint Committee on Offices of Profit (Third Lok Sabha) decided that the composition and character etc. of the bodies registered under the Societies Registration Act need not generally be examined by them unless any particular case merits consideration by them.

9. Before I conclude, I might also mention to you that with a view to implement the recommendations made by the Joint Committee on Offices of Profit in their various Reports presented during the Second, Third and Fourth Lok Sabha, Government propose to bring forward a Bill to amend the Parliament (Prevention of Disqualification) Act, 1959. This item has been included in the tentative list of Government Legislative Business expected to be taken up during the current session of Lok Sabha.

Thank you.

ANNEXURE II

LOK SABHA SECRETARIAT

Parliament House,
New Delhi-1.

No. 11|2|CII|71 *Dated the* ,1971.

OFFICE MEMORANDUM

SUBJECT: *Joint Committee on Offices of Profit (Fifth Lok Sabha).*

The undersigned is directed to state that the Joint Committee on Offices of Profit for the Fifth Lok Sabha has been constituted.

2. The functions of the Committee are as follows :—

(i) to examine the composition and character of all existing 'committees' and all 'committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under Article 102 of the Constitution;

(ii) to recommend in relation to the 'committees' examined by it what offices should disqualify and what offices should not disqualify; and

(iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

3. All the Ministries and Departments of the Government of India are requested to please furnish information on the points listed in the Annexure in respect of the following categories of Committees|Boards|Corporations, etc., constituted by Government for which they are responsible:

(i) the existing Committees|Boards|Corporations, etc., constituted by Government which have not so far been examined the Joint bCommittee on Offices of Profit,

(ii) the existing committees|Boards|Corporations, etc. constituted by Govt., which, although have already been examined by the Joint Committee on Offices of Profit, but whose constitution (including payment of TA|DA etc. to the members) has undergone any change since their examination by the Committee in the past; and

(iii) the Committees|Boards|Corporations, etc., which may hereafter be constituted|established by Government.

4. Information in respect of the committees|Boards|Corporations, etc. which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, need not be supplied.

5. Copies of the Acts, rules, resolutions, orders or notifications setting forth the functions, composition, remuneration or allowances etc., paid to the members of the Committees|Boards|Corporations, etc. may also be supplied alongwith the information furnished by the Ministries and Departments on the lines indicated in para 3 above.

6. The receipt of this Office Memorandum may please be acknowledged.

Sd|- P. K. PATNAIK,
Joint Secretary.

To

All the Ministries and Departments of the Government of India, New Delhi.

ANNEXURE

(*Vide* para 3 of the Office Memorandum)

(i) Name of the Committee|Board|Corporation etc.

(ii) Act, Rule or Order under which the same was constituted.

(iii) Composition of the Committee|Board|Corporation etc. (number of officials and non-officials and whether Chairman and Secretary are officials or non-officials).

(iv) Mode of appointment of members.

(v) The term of office of its members.

(vi) The remuneration payable to the members of the Committee|Board|Corporation, etc., including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance, sitting fee etc. (Actual rates of payment may be specified).

(vii) Functions of the Committee|Board|Corporation etc. (Detailed functions may be given *i.e.*, whether they perform executive, legislative or judicial functions and whether they have financial powers).

(viii) Capital structure, shareholding, annual turnout of the Company, etc. in case the body is a public undertaking.

ANNEXURE III

LOK SABHA SECRETARIAT

Parliament House,
New Delhi-1.

No. 11|2|CII|71 Dated the , 1971.

From

Shri P. K. Patnaik,
Joint Secretary.

To

The Chief Secretaries to all
the State Governments and
Union Territories.

SUBJECT:—*Joint Committee on Offices of Profit (Fifth Lok Sabha).*

Sir,

I am directed to state that the Joint Committee on Offices of Profit for the Fifth Lok Sabha has since been constituted.

2. The functions of the Committee are as follows:—

(i) to examine the composition and character of all existing 'Committees' and all 'Committees' that may hereafter be constituted, membership of which may disqualify a person for being chosen as, and for being, a member of either House of Parliament under Article 102 of the Constitution;

(ii) to recommend in relation to the 'Committees' examined by it what offices should disqualify and what offices should not disqualify; and

(iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

3. I am, therefore, directed to request you kindly to furnish information on the points listed in the Annexure in respect of the following categories of Committees|Boards|Corporations, etc.:

(i) the existing Committees|Boards|Corporations, etc., constituted by the State Government|Union Territory which have not so far been examined by the Joint Committee on Offices of Profit;

(ii) the existing Committees|Boards|Corporations etc., constituted by the State Government|Union Territory which, although have already been examined by the Joint Committee on Offices of Profit, but whose constitution (including payment of T.A.|D.A. etc. to the members) has undergone any change since their examination by the Committee in the past; and

(iii) the Committees|Boards|Corporations, etc., which may hereafter be constituted|established by the State Government|Union Territory.

4. Information in respect of the Committees|Boards|Corporations, etc., which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, need not be supplied.

5. Copies of the Acts, rules resolutions, orders or notifications setting forth the functions, composition, remuneration or allowances etc. paid to members of the Committees|Boards|Corporations, etc. may also be supplied along with the information furnished by the State Government|Union Territory on the lines indicated in para 3 above.

Sd|- P. K. PATNAIK,
Joint Secretary.

ANNEXURE

(*Vide* para 3 of the letter)

(i) Name of the Committee|Board|Corporation etc.
(ii) Act, Rule or Order under which the Committee|Board|Corporation etc. was constituted.

(iii) The term of office of the members of the Committee|Board|Corporation etc.,

(iv) The remuneration payable to the members of the Committee|Board|Corporation etc. including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance and sitting fee etc. (Actual rates of payment may be specified).

(v) Composition of the Committee|Board|Corporation etc., (number of officials and non-officials and whether Chairman and Secretary are officials or non-officials).

(vi) Mode of appointment of members.

(vii) Functions of the Committee|Board|Corporation etc. (Detailed functions may be given *i.e.*, whether they perform executive, legislative or judicial functions and whether they have financial powers).

(viii) Capital structure, shareholding, annual turnout of the Company, etc. in case the body is a public undertaking.

ANNEXURE IV

LOK SABHA SECRETARIAT

Joint Committee on Offices of Profit (Fifth Lok Sabha).

MEMORANDUM NO.

1. Name of the Committee, Board, Council etc.
2. Name of Act, Resolutions, etc. under which constituted and Rules, Regulations, if any, framed thereunder.
3. Terms of Office of members.
4. Travelling, daily allowances, etc.
5. Composition.
6. Functions.
7. Manner of appointment.
8. *Classification of Committee*

(i) (a) Whether it is a purely Advisory Committee.

(b) whether it is an Advisory Committee wielding influence or power by way of patronage ?

(ii) Whether it is a Non-Advisory Committee which—

(a) carries executive, legislative or judicial powers; or

(b) confers powers of disbursement of funds, allotment of lands, issue of licences etc,; or

(c) gives powers of appointment, grant of scholarships etc. ?

(iii) Whether it is an office of an occasional or contractual nature?

9. Recommendation.

II

Second Sitting

The Committee met on Thursday, the 12th August, 1971 from 10.00 to 11.00 hours.

PRESENT

Shri Dharnidhar Basumatari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Chandrika Prasad
3. Shri Pratap Singh
4. Shri Ramji Ram
5. Shri S. B. P. Pattabhi Rama Rao
6. Shri Ramavatar Shastri

Rajya Sabha

7. Shri Venigalla Satyanarayana
8. Shri M. V. Bhadram
9. Shri S. A. Khaja Mohideen
10. Shri Sanda Narayanappa

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee took up for consideration Memorandum No. 1 relating to the Gujarat State Road Transport Corporation. The Committee noted that the Chairman of the Corporation got an honorarium of Rs. 1,000 per month in addition to his conveyance allowance claims. The non-official members of the Corporation were entitled to a sitting fee of Rs. 50 for attending the sittings of the Corporation in addition to D.A. and conveyance allowance of Rs. 7.50 in Ahmedabad and Rs. 5 elsewhere for the day of the sitting. The aggregate amount payable to the non-official members of the Corporation thus exceeded the amount of 'compensatory allowance'. Besides, the Corporation exercised executive powers under various provisions of the Road Transport Corporation Act, 1950 which

could be delegated to members through committees. As such, the Committee felt that the membership of the Corporation ought to disqualify.

3. As regards Memorandum No. 2 relating to the Maharashtra State Road Transport Corporation, the Committee noted that the Members of the Corporation were entitled to a sitting fee of Rs. 40 per day, which was less than the compensatory allowance. However, the Corporation had executive powers under Section 19 of the Road Transport Corporations Act, 1950. Although the Members of the Corporation could not individually exercise powers or functions of the Corporation, they could do so collectively through committees appointed by the Corporation under Section 12 of the Act *ibid.*

The question whether membership of the Corporation ought or ought not to disqualify was discussed by the Committee at considerable length. Some of the members felt that as the Members of the Corporation could not exercise powers in individual capacity, they ought not to disqualify. The majority of the members, however, felt that as the Corporation had executive powers and the members could exercise these powers through committees appointed by the Corporation, they ought to disqualify, even though they did not individually have any power.

4. As regards the Calcutta Tramways Advisory Committee (Memo No. 3), the Committee noted that the Chairman—a non-official—was entitled to an allowance of Rs. 150 for attending each meeting. Other non-official members were entitled to an allowance of Rs. 100 per day. As the amount payable to the Chairman and other non-official members per day exceeded the 'compensatory allowance', the Committee felt that the membership of the Committee ought to disqualify.

5. The Committee then considered the representation of the Government of West Bengal in regard to the recommendation of the Committee contained in para 7 of their Fifth Report (Fourth Lok Sabha) relating to the Board of Review of Publications, West Bengal (Memo No. 4). The Committee noted that the Chairman of the Board was no longer in receipt of a monthly honorarium and that he now drew only Rs. 50 per sitting of the Board in the nature of daily allowance. This amount being less than compensatory allowance, the Committee decided to revise their earlier recommendation and to recommend that the Chairmanship of the Board ought to be exempted from disqualification.

6. The Chairman then apprised the Committee about the receipt of a copy of the draft Parliament (Prevention of Disqualification) Amendment Bill, 1971 from the Ministry of Law and Justice, with the request that the proposals contained in the draft Bill might be placed before the Committee who may furnish their Report in the matter within a period of six months. The Chairman further informed the members that the Bill, after its provisions have been examined by the Lok Sabha Secretariat, will be placed before the Committee.

7. The Committee then adjourned to meet again on Friday, the 24th September, 1971 to consider Memoranda Nos. 5 to 19.

III

Third Sitting

The Committee met on Friday, the 24th September, 1971 from 11.00 to 12.15 hours.

PRESENT

Shri Dharnidhar Basumatari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Chandrika Prasad
3. Shri Jagannathrao Joshi
4. Shri Z. M. Kahandole
5. Shri Pratap Singh
6. Shri Ramji Ram
7. Shri S. B. P. Pattabhi Rama Rao
8. Shri Arjun Sethi
9. Shri Ramavatar Shastri

Rajya Sabha

10. Shri Venigalla Satyanarayana
11. Dr. (Mrs.) Mangladevi Talwar
12. Shri S. A. Khaja Mohideen
13. Shri Sanda Narayanappa

SECRETARIAT

Shri H. G. Paranjpe—Deputy Secretary

2. At the outset, the members stressed the need for early allotment of a separate room in Parliament House to the Chairman

where they could meet from time to time and discuss with him matters coming within the purview of the Committee.

3. The Committee then took up for consideration Memorandum No. 5 relating to the Arbitration Board, Kerala. The Committee noted that the Chairman and members of the Board, who were all non-officials, were entitled to a sitting fee of Rs. 75 for attending the sittings of the Board which exceeded the amount of 'compensatory allowance'. Besides, the Board exercised judicial powers. As such, the Committee felt that the membership of the Board ought to disqualify.

4. The Committee then took up consideration of Memorandum No. 6. At their sitting held on the 18th August, 1970, the Joint Committee on Offices of Profit (Fourth Lok Sabha), while considering Memorandum No. 284 regarding Industrial Relations Committee for the Handloom Industry had desired to have further information regarding the functions of the Committee from the Government of Kerala.

In their reply, the Government of Kerala stated as follows:

> "The main functions of the Industrial Relations Committee are to discuss and find out amicable decisions on all issues of industry-wise nature in order to maintain cordial relationship between managements and their labour in the Handloom Weaving Industry. Important decisions are drawn up in the form of memorandum of settlement under *Industrial Disputes Act* and hence they are having legal validity. Specific issues affecting the industry are being enquired into by setting up of sub or *ad-hoc* committees and its report considered by the main Industrial Relations Committee. Representation is given to important employers and to organisations of employees and also to independent unions of substantial strength with the Labour Commissioner as its Chairman."

5. In this connection, the Committee took note of the following observations made by the Sub-Committee of the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1958 in their Report:

> "The Sub-Committee note that Members of Parliament happen to be sometimes elected or nominated by sectional interests such as employers, employees etc., to represent them on some of the Committees. The Sub-Committee are

of the view that such members ought not to incur disqualification.",

The Committee also noted that the non-official members were allowed only T.A. and D.A. which was less than compensatory allowance.

6. The Committee, therefore, felt that the non-official members ought to be exempted from disqualification.

7. The Committee then took up for consideration Memorandum No. 7 regarding Kerala State Coir Corporation Ltd. The Committee considered the matter at considerable length. They took note of the evidence tendered before the Joint Committee (Fourth Lok Sabha) by Shrimati Suseela Gopalan and Shri N. Sreekantan Nair, M.Ps. They also took note of the fact that the matter had been raised twice in the present Lok Sabha—once at the time of the constitution of the present Committee and the second time on the motion to consider Shri N. Sreekantan Nair's Bill to amend the Parliament (Prevention of Disqualification) Act, 1959. They, however, felt that even though the Directors of the Corporation were entitled to a sitting fee of Rs. 25 only which was less than compensatory allowance, they exercised executive and financial powers and were in a position to wield influence and patronage. The Committee, therefore, decided to reiterate their earlier recommendation that even the directorship of the Corporation ought to disqualify.

8. In regard to Memorandum No. 8 relating to the Board of Primary Education, Orissa, the Committee noted that the functions of the Board were advisory in nature and the non-official members were entitled to TA.|D.A. which was less than compensatory allowance. As such, the Committee felt that they ought to be exempted from disqualification.

9. As regards Memorandum No. 9 relating to the State Flood Control Board, Orissa, the Committee noted that only T.A. was paid to the non-official members of the Board who stayed outside Bhubaneswar and that no D.A. was admissible to them. The Committee also noted that the functions of the Board were advisory in nature. As such, the Committee felt that the non-official members of the Board ought to be exempted from disqualification. In this connection the committee noted that the term of office of Members was not fixed. They desired that the position may be clarified from the State Government.

10. The Committee then considered Memorandum No. 10 relating to the Central Social Welfare Board.

The Joint Committee on Offices of Profit in para 13 of their Fifth Report (Fourth Lok Sabha) had, *inter alia*, observed that under clause 12(J) of the Articles of Association of the Company (Central Social Welfare Board), the Executive Committee could delegate to any officer of the Board (Company) such administrative and financial powers as it might deem fit. The Committee had, therefore, recommended that any non-official member who was delegated with any executive and financial powers at a subsequent date ought also to disqualify.

11. In regard to the above recommendation of the Committee, the Department of Social Welfare represented as follows:—

> "Since no non-official member of the Executive Committee has been delegated with any executive and financial powers and decisions are taken by the Executive Committee only in its collective capacity, provisions regarding disqualification for the purpose of election to the Parliament should not apply to the non-official members of the Executive Committee, who do not hold any office of profit in the Board."

12. The Committee noted that, in terms of their earlier recommendation, only such of the non-official members of the Board ought to incur disqualification as were delegated with executive or financial powers under clause 12(J) of the Articles of Association of the Company. So long as they were not delegated with any such power, the question of incurring a disqualification, as per the aforesaid recommendation of the Committee, would not arise. They, therefore, felt that no change in their earlier recommendation was called for.

13. As regards Memorandum No. 11 relating to the Maharashtra Faculty of Ayurvedic and Unani Systems of Medicine, the Committee noted that the non-official members of the Faculty were entitled to a sitting fee of only Rs. 15 which was less than compensatory allowance. As such, the Committee felt that they ought to be exempted from disqualification.

14. The Committee then considered Memorandum No. 12 relating to the Maharashtra Board of Ayurvedic and Unani Systems of Medicine. According to the information furnished by the State Government, the Board had quasi-judicial functions. It was not, however, clear whether the Board exercised any executive and financial powers. The Committee noted that the Maharashtra Medical Council with similar functions had some executive and financial powers. The Committee, therefore, desired that a clarification in this regard might be sought from the Government of Maharashtra. The Committee deferred consideration of the matter

till the information desired by them was received from the State Government.

15. As regards Maharashtra Medical Council (Memo. No. 13), the Committee noted that the non-official members were entitled to a sitting fee of Rs. 50 for attending meetings of the Council. It was however, not clear from the material furnished by the Government of Maharashtra whether, in addition to the sitting fee of Rs. 50, non-official members of the Council were entitled to any D.A. or any other payment for the days they attended the sittings of the Council.

The Committee further noted that the President of the Council could register a person without the production of the degree certificate if he was otherwise satisfied about the latter's qualifications. It was not clear whether the Maharashtra Government had enacted the Registration of Medical Practitioners Act, and if so, whether that Act vested such powers in the President of the Council. The Committee, therefore, desired that a clarification in this regard might be sought from the Government of Maharashtra. The Committee deferred consideration of the matter till the information desired by them was received from the State Government.

16. The Committee then considered Memorandum No. 14 relating to the State Committee on Employment for Madhya Pradesh. The Committee noted that the functions of the Committee were purely advisory in nature. Moreover, the non-official members were entitled to D.A. of Rs. 15 per day only for attending the meetings of the Committee which was less than compensatory allowance. As such, the Committee felt that they ought to be exempted from disqualification.

17. In regard to the District Committee on Employment, Raipur (Memo. No. 15), the Committee noted that the non-official members were not entitled to any allowance for attending the sittings of the Committee. The Committee also noted that the functions of the Committee were advisory in nature. The Committee, therefore, felt that the non-official members of the said Committee ought not to disqualify.

18. The Committee then considered Memorandum No. 16 relating to the Rajasthan State Scheduled Castes Welfare Advisory Board. The Committee felt that since the functions of the Board were purely advisory in nature and the non-official members were entitled to D.A. of Rs. 7.50 only less than compensatory allowance—they ought to be exempted from disqualification.

19. As regards the Committee to survey the Indian Book Industry and Trade (Memo. No. 17) the Committee noted that the Chairman and non-official members of the Committee were entitled to D.A. within the ceiling of Rs. 30 per day, which was less than compensatory allowance. Besides, the functions of the Committee were advisory in nature. As such, the Committee felt that the membership of the said Committee ought to be exempted from disqualification.

20. The Committee then considered Memorandum No. 18 relating to the Board of Directors of Hindustan Teleprinters Ltd., Madras. The Committee noted, that the non-official Directors were entitled to a sitting fee of Rs. 50 for each meeting. They were also entitled to incidental expenses of Rs. 100. The local Directors, besides getting a sitting fee of Rs. 50 per meeting, were also entitled to get Rs. 12.50 per meeting to cover out-of pocket expenses including conveyance charges. The Members of the Board of Directors thus got an amount which was more than compensatory allowance. Besides, the Board of Directors exercised executive and financial powers. As such, the Committee felt that the membership of the Board of Directors ought to disqualify.

21. As regards Memorandum No. 19 relating to the Calcutta State Transport Corporation, the Committee noted that the non-official members of the Corporation were entitled to a sitting fee of Rs. 100 per meeting which was more than compensatory allowance. The Committee also noted that the Board exercised executive and financial powers. As such, the Committee felt that even membership of the Corporation ought to disqualify.

22. The Committee then adjourned to meet again on Wednesday, the 10th November, 1971 at 15.00 hours to consider their draft First Report.

IV

Fourth Sitting

The Committee met on Wednesday, the 10th November, 1971 from 15.00 to 15.40 hours.

PRESENT

Shri Dharnidhar Basumatari—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Somnath Chatterjee

3. Shri Z. M. Kahandole
4. Shri Pratap Singh
5. Shri S. B. P. Pattabhi Rama Rao
6. Shri Ramavatar Shastri

Rajya Sabha

7. Dr. (Mrs.) Mangladevi Talwar
8. Shri Sanda Narayanappa

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee considered their Draft First Report and adopted it without amendment.

3. The Committee decided that the Report might be presented to Lok Sabha on the 10th December, 1971 and laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in his absence, Shri S. B. P. Pattabhi Rama Rao to present the Report to Lok Sabha on their behalf.

5. The Committee authorised Shri Sanda Narayanappa and, in his absence, Dr. (Mrs.) Mangladevi Talwar to lay the Report on the Table of Rajya Sabha.

6. The Committee then adjourned.

GMGIPND—LSII—2218LS—7-12-71—850.